

Remarks

Applicant requests reconsideration and allowance of this application in view of the foregoing amendment and the following remarks.

Applicant appreciates the time the Examiner took at the interview of December 5, 2005. This amendment is an earnest effort to respond to the points raised by the Examiner both at the interview and in the pending Office Action.

A new set of claims is provided that is believed to address the issues raised. The claims are directed to a package that includes a container and a closure for the container. In order to expedite prosecution of the application, the new claims might address only some of the features set forth and claimed previously. Applicant explicitly does not concede unpatentability of any rejected claims, or currently unclaimed subject matter; applicant reserves the right to address these features in future amendments or applications.

Applicant respectfully submits that the term “said detachable member detaching from said slide and moving with said slide” is not contradictory. A trailer can be detached from its pulling tractor and then pushed by the tractor, for example.

As to the art cited in the Office Action, applicant submits that the newly presented claims clearly define over the art. Independent claim 26 reads:

26. A package containing and dispensing medicine such as a plurality of pills or tablets or the like, comprising:

a container sized to contain medicine such as a plurality of pills for a patient, the container having an original seal; and

a child-resistant closure to close the container, including a plug having an access opening for the medicine, the closure being openable to break the original seal and also openable thereafter only by the application of two dissimilar, simultaneous motions;

the closure including a slide that is slidable in a first direction along the plug from a closed position to an open position, the slide when in the closed position closing the access opening and having pins that engage shoulders on the plug to block sliding movement of the slide along the plug in the first direction;

the slide being movable into a released position by the application of force in a second direction different from the first direction so that the pins of the slide move away from

the shoulders of the plug thereby to enable sliding movement of the slide along the plug in the first direction;

the slide being slidable out of the released position by the application of force in the first direction simultaneous with the application of force in the second direction.

The Office Action cited the Rosten et al. patent as anticipatory prior art. Rosten does not disclose a child-resistant closure that is openable only by the application of two dissimilar, simultaneous motions. Rosten only discusses sliding a slide along a slideway. This is one motion in one direction. Detents are provided that appear to be of a type that is easily overcome by sliding the slide more forcefully. The slideway is suggested to be formed from thermoformed plastic film (Col. 4, l. 11) which would easily deform to allow this action. There is no teaching or suggestion of the need for a second, dissimilar, simultaneous motion (application of force in a second direction).

The Office Action cited the Waterbury patent as anticipatory prior art. Waterbury does not disclose a child-resistant closure that is openable only by the application of two dissimilar, simultaneous motions. Waterbury only discusses sliding a slide closure 13 along a guideway. Thus, Waterbury does not clearly teach the subject matter of claim 26, and no suggestion is found of the need for a second motion.

The Office Action cited the McKee patent as anticipatory prior art. McKee shows small unit-dosage packets in a sealed packet marked with the code identification of the medication contained in the packet. Thus, McKee is not anticipatory or suggestive of the subject matter of claim 26.

The Office Action cited the Lurssen patent as relevant prior art. Lurssen shows a sealed container for a medicine bottle and is clearly not anticipatory or suggestive of the subject matter of claim 26.

Applicant respectfully submits that the subject matter of claim 26 is neither anticipated by nor obvious in view of the prior art. Therefore, claim 26 is submitted to be allowable.

Each one of claims 27-36 is dependent directly or indirectly from claim 26 and is allowable for the same reasons as claim 26. In addition, each one of claims 27-36 adds one or more features or limitations that provide a separate basis for patentability.

Specifically, claim 27 recites a package as set forth in claim 26 wherein the slide is formed as one piece with a detachable member that breaks off the slide when the slide is moved from the closed position to the released position, on opening of the package to break the original seal of the package.

None of the references discussed above includes a detachable member as specified in claim 27. In the Office Action, the patent to Waterbury is cited in the rejection of now-canceled claim 10 which recited a detachable member. The structure in Waterbury which is compared to the detachable member is a frangible seal 21 that appears to be tape of some type placed over the slide. It is clearly not formed as one piece with the slide closure 13. Forming the detachable member as one piece with the slide closure eliminates the separate assembly step of applying a seal after the slide closure is in place. This is significant in mass production or computerized filling of a large number of prescription packages, for example, in a mail order pharmacy. Also, the presence of a broken seal/tape is eliminated, which is cleaner and therefore desirable in applications such as the claimed medicine container.

Claim 28 recites a package as set forth in claim 27, wherein the breaking off of the detachable member creates an audible snapping sound as an indication that the original seal of the package is being broken. This is not shown in or suggested by the references; there is no indication in the Waterbury patent of such an effect. The audible snapping sound is an advantageous feature in indicating that the original seal is being broken. Therefore, claim 28 is submitted to be allowable.

Claim 29 recites a package as set forth in claim 27 comprising a plurality of ratchet teeth on the plug that are engaged by a portion of the slide as the slide moves between the open and closed positions to provide an audible sound indicating opening of the closure, the ratchet teeth being engaged by the detachable member as the slide moves from the closed position to the open position, the ratchet teeth enabling sliding movement of the detachable member in the first

direction and preventing movement of the detachable member with the slide when the slide is returned to the closed position.

Applicant respectfully submits that Rosten's "detents" are not ratchet teeth, as is alleged in the Office Action. Ratchet teeth are teeth that can enable movement in one direction and prevent movement in the opposite direction. Claim 29 specifies ratchet teeth, and their effect in the claimed structure, among numerous other features. These teeth, and their effect, are not present in Rosten's structure. Claim 29 is, therefore, neither shown in nor suggested by the references, and is submitted to be allowable.

Claim 30 depends from claims 29 and specifies that the ratchet teeth resist movement of the slide in either direction along the plug thereby to help control positioning of the slide and retain the slide in any selected one of a plurality of open positions. In the illustrated embodiment, as an example, the plug has a finger 103 that engages the ratchet teeth in this manner. This feature is clearly advantageous and is not shown in or suggested by the references.

Claim 31 recites that the slide and the detachable member remain connected with the plug after the detachable member detaches from the slide. This feature is advantageous as compared to, for example, the frangible tape shown in Waterbury which is clearly capable of being removed or falling off during use, which is not desirable in a medicine container.

Claim 32 states that the child-resistant closure meets the requirements and effectiveness specifications for child-resistant packaging for children's medicine containers as set forth in applicable federal regulations. Applicant's disclosure is directed overall to this concept, as is clear from a reading thereof; therefore, this claim finds support in the mind of one of ordinary skill in the art. The cited references are not directed to this concept, and certainly not in combination with the features of base claim 26.

Claim 33 specifies that the slide is made of a resilient material so that the slide snaps back into the closed position when moved from the open position past the shoulders on the plug. This structure is neither shown in nor suggested by the references.

Claim 34 specifies a package as set forth in claim 26 wherein the container has a generally rectangular configuration including at least one generally flat side surface large enough

for placement of a mailing address label; an address label on the side surface; and further including a sealable mailer envelope for receiving the medicine container, the mailer envelope having a transparent window through which the address label on the container is visible when the container is received in the mailer envelope.

The Office Action cites the Lurssen reference in relation to this subject matter. In the Lurssen reference, a bottle 21 is enclosed in a tube 1 having closed ends 3 and 4. The tube 1 has a window 11 for enabling viewing of a label on the bottle 21. A sleeve 2 is telescoped over the tube 1 and is held in place longitudinally on the tube by the ends 3 and 4 of the tube. The sleeve 2 is rotatable on the tube 1. The sleeve 2 also has a window 12 that can, if desired, be aligned rotationally with the window 11.

In Lurssen, in one condition, the two windows 11 and 12 are aligned, and the container (1+2) is effectively open so that the purchaser can see the label on the bottle (Fig. 1). In another condition (Fig. 2), the windows 11 and 12 are positioned relative to each other so that they do not overlap, and the container (1+2) is completely closed. In this condition, the window 12 on the sleeve 2 exposes an imperforate wall surface 13 of the inner tube 1. The wall surface 13 may have a mailing address placed on it (page 2, right column, lines 38-53), so that the container (1+2) when in this condition serves as a mailer (if sufficiently glued and taped shut).

Thus, in Lurssen, the mailing label is placed not on the medicine package itself (the bottle 21), but rather on a portion of the mailer (the tube 1). Claim 34, in contrast, specifies that the address label is on the medicine package itself, not on the mailer. Applicant's structure is clearly different and, it is believed, advantageous in this particular field. For at least this reason, claim 34 is submitted to be allowable.

Claim 35 recites a package as set forth in claim 34 wherein the rectangular container further has a flat spine surface large enough for placement of medicine identifying information visible to the patient when the package is stored. Lurssen shows nothing like this, nor do the other references. Thus, claim 35 is submitted to be allowable.


Claim 36 specifies a package as set forth in claim 26 including teeth on the plug that are engaged by a portion of the slide as the slide moves between the open and closed positions to

provide an audible sound indicating sliding movement of the slide, the teeth resisting movement of the slide in either direction along the plug thereby to help control positioning of the slide and retain the slide in any selected one of a plurality of open positions. As discussed above with reference to claim 30, this structure is not found in or suggested by the references and is advantageous. Therefore, claim 36 is submitted to be allowable.

All the claims of this application being allowable, applicant submits that this application is in condition for allowance, and notice to that effect is respectfully requested.

Respectfully submitted,

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